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Lead Report

Competition FCC Rules Competition in Omaha Enough to Ease Unbundling for Qwest

The Federal Communications Commission late Sept. 16 ruled that Denver, Colo.-based Qwest, a regional Bell operating company, faces enough competition in the Omaha, Neb., area to lift dominant carrier regulation and unbundling obligations in nine of its wire centers.

Competitive local exchange carriers were fearful that an order lifting the unbundling obligations of Qwest would harm them in Omaha, and result in copycat petitions being filed

across the country (180 TCM, 9/19/05 ☐ a0b1m2v0k3).

At issue is a petition filed by Qwest in June 2004, asking the commission to forbear from enforcing dominant carrier regulation and unbundling obligations in the Omaha metropolitan statistical area because the carrier was facing substantial facilities-based competition from Cox Communications and other wireline, wireless, and Voice over Internet Protocol (VoIP) providers.

In a release announcing the commission's decision, the commission stated that because of the particular market characteristics of the Omaha area, including the substantial infrastructure investment made by Cox Communications, the commission was relieving Qwest of certain legacy monopoly regulations.

In terms of its unbundling obligations, the commission granted Qwest relief in targeted areas where intermodal competition is extensive, the commission stated. Specifically, the commission *relieved Qwest of the obligation to provide unbundled network elements to competitors in nine of Qwest's 24 wire center service areas in Omaha.*

The commission said it left in place other requirements such as interconnection and collocation obligations, as well as obligations to provide access to local loops, transport, and switching at just and reasonable prices.

The commission also granted Qwest relief from dominant carrier regulation throughout the entire Omaha area. The commission specifically will forbear from applying price cap, rate of return, 15-day tariffing, and 60-day discontinuance regulations to Qwest for the provision of retail voice and broadband Internet access services.

The commission adopted a six-month transition period to permit competing carriers that currently use unbundled network elements in the nine wire centers receiving relief to migrate to their own facilities, *alternative facilities offered by other competitive carriers*, or to services offered by Qwest.

How Much Is Enough?

On Sept. 16, Cox Communications filed a response to a staff inquiry asking for additional information about its customers in the Omaha area. Cox provided the commission the number of residential customers it has within Qwest's wire centers, the number of business customers it serves, and how many lines and circuits it serves.

The actual numbers were all redacted, reflecting the long-standing commission practice of protecting market share information, which is considered commercially sensitive, according to commission staff. Likewise, Qwest's initial petition, in which it argued a loss of market share, redacted all market information within the document.

Earl Comstock, president and chief executive officer of CompTel, the nation's largest trade association representing competitive carriers, was critical of the commission's ruling.

"Unfortunately, the commission has sacrificed the interests of Omaha businesses and consumers in favor of a cable-[incumbent local exchange carrier] duopoly in the residential marketplace, and a Qwest monopoly in the business market," he said.

"Incumbents in other regions may well follow suit on a city-by-city basis, hoping to reverse the trend towards competition by eliminating unbundling requirements in a piecemeal fashion. It remains to be seen whether Omaha is an anomaly, or whether the FCC will assist the Bells in other markets where competitive carriers are bringing lower prices, innovative services, and consumer benefits to the marketplace," Comstock said.

Despite Qwest's apparent victory, the company's response to the commission's order was reserved. Typically, the commission does not release the full text of its order for several weeks after it is announced.

"While the press release indicated the general direction in which the commission is headed, it did not provide a great amount of specificity and we are reserving comment until more detail

is made available," Qwest said in a prepared statement.

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